

STATUS REPORT TO THE TWENTY-THIRD LEGISLATURE

2006 REGULAR SESSION

FROM THE

TASK FORCE ON BEACH AND WATER SAFETY



PREPARED BY THE

DEPARTMENT OF LAND AND NATURAL RESOURCES
IN CONJUNCTION WITH THE
TASK FORCE ON BEACH AND WATER SAFETY

IN RESPONSE TO

ACT 190, SESSION LAWS OF HAWAII 1996
AS AMENDED BY

ACT 101, SESSION LAWS OF HAWAII 1999
AS AMENDED BY

ACT 170, SESSION LAWS OF HAWAII 2002

NOVEMBER 2005

This status report has been prepared for submission to the Twenty-Third Legislature, 2006 Regular Session, pursuant to a provision in Act 190, Session Laws of Hawai'i (SLH) 1996, as amended by Act 101, SLH 1999, as amended by Act 170, SLH 2002, mandating annual reporting by the Task Force on Beach and Water Safety on its recommendations through 2007.

Act 190, SLH 1996, established a process for the State and Counties to provide both meaningful and legally adequate warnings to the general public of extremely dangerous natural conditions in ocean areas adjacent to their respective public beach parks. The Act recognized a duty to warn specifically of dangerous shorebreak or strong current in the ocean fronting a beach park, if either condition exists, is extremely dangerous, is typical for that beach park, and poses a risk of serious injury or death.

Act 190, SLH 1996, clarified that the State and Counties have no duty to warn of dangerous natural conditions at beaches, beach/coastal accesses or areas that are not public beach parks.

Act 190, SLH 1996, provided for a process, including record keeping, to replace vandalized, removed or illegible warning signs.

Act 190, SLH 1996, called for the formation of a Task Force on Beach and Water Safety to advise the Chairperson of the Board of Land and Natural Resources prior to the Chairperson making a decision on the design and placement of warning signs erected pursuant to this Act.

The Task Force on Beach and Water Safety was convened after officer participants were solicited via their respective County Mayors and formally appointed by Governor Benjamin Cayetano pursuant to Act 190, SLH 1996. Other Task Force members were seated by their government position as provided in the Act. A new Task Force member was appointed and the sitting Task Force members had their appointment continued in August 2002.

Act 101, SLH 1999, amended Act 190, SLH 1996, by extending its mandate through June 30, 2003. Act 170, SLH 2002, subsequently amended Act 101, SLH 1999, by extending its mandate through June 30, 2007.

The Task Force members are:

Peter T. Young, (Task Force Chairperson), Chairperson, Board of Land and Natural Resources

Ted Liu, Director, Department of Business, Economic Development and Tourism

Chris Measures, Chair, Department of Oceanography, University of Hawai‘i

Marian Feenstra, Chief, Aquatics Division, Department of Parks and Recreation, County of Maui

David Kalani Vierra, Ocean Safety Bureau, Kaua‘i Fire Department, County of Kaua‘i

Ralph Goto, Director, Ocean Safety & Lifeguard Services Division, Department of Emergency Services, City and County of Honolulu

Larry Davis, Program Administrator, Aquatics Division, Department of Parks and Recreation, County of Hawai‘i

Designees are:

Daniel S. Quinn (for Peter T. Young), Administrator, Division of State Parks, Department of Land and Natural Resources

Richard Grigg (for Chris Measures) Marine Biologist, Department of Oceanography, University of Hawai‘i

Since late 1996, as reported previously, the Task Force has accomplished the following:

- Designed signs to warn of “strong current” and “dangerous shorebreak”
- Prepared guidelines for permanent sign placement
- Placed “strong current” and “dangerous shorebreak” signs, where warranted, at State and County beach parks

- Designed signs to warn of other extremely dangerous natural conditions in the ocean adjacent to a public beach park:

high surf	waves break on ledge
sudden drop-off	slippery rocks
man-o-war	jellyfish
sharp coral	shark sighted
rip currents	
- Prepared guidelines for temporary sign placement

The Task Force met on February 14, 2005 and July 1, 2005. The meeting agenda and minutes of the February 14, 2005 meeting are attached as Appendix 1. The meeting agenda and draft minutes of the July 1, 2005 meeting are attached as Appendix 2. The minutes of the July 1, 2005 meeting will be reviewed for adoption at the next Task Force meeting.

SUMMARY OF TASK FORCE ACTIVITIES:

The purpose of the Task Force is primarily to advise the Chairperson of the Board of Land and Natural Resources prior to the Chairperson making a decision on the design and placement of warning signs erected pursuant to Act 190, SLH 1996. The Task Force is also mandated to prepare an annual report on its recommendations. For this reporting period, the only new signs requiring Task Force recommendation to the Chairperson are two new sign locations requested by the City and County of Honolulu for Koko Kai Beach Park, also known as China Walls.

Koko Kai Beach Park is accessed via beach right-of-way at the end of a cul-de-sac on Hanapepe Place in Portlock. The area is subject to strong currents and waves on a ledge.

Accordingly, the City and County of Honolulu requested approval of two new sign locations. One will be located on the right side of the cul-de-sac. The second sign location on the left side of the cul-de-sac.

The City and County's request was approved by the Task Force, and subsequently sent to the Chairperson for consideration.

Another focus of effort for the Task Force is the development of comprehensive plans. Act 190, SLH 1996, provides for development of comprehensive plans to further enhance ocean safety at beach parks.

The Task Force continues to review and discuss comprehensive plans, specifically the Comprehensive Plan for Sandy Beach on O'ahu. The Plan was prepared by the Ocean Safety and Lifeguard Services Division, Department of Emergency Services, City and County of Honolulu. The intent is to use this Plan, which continues to be refined as a template for other comprehensive plans.

The topic of greatest concern for the Task Force is the report to the Legislature. Therefore, this report includes discussion of the effectiveness of Act 190, SLH 1996, and Act 170, SLH 2002.

Act 190, SLH 1996, provides meaningful warning to the general public of extremely dangerous natural conditions in ocean area adjacent to public beach parks. Act 190, SLH 1996, also establishes legally adequate and defensible standards for those warnings. Stated another way, once the warning signs are approved and installed, the public has been adequately warned of those hazards, and the State and Counties are protected from lawsuits which allege a failure of duty to warn. The success of this aspect of Act 190, SLH 1996, can be measured by examining lawsuits filed before and after the law was effective, and comparing the amount of money expended by the Counties and State for those lawsuits.

It should be noted that signs developed through the Act 190, SLH 1996, process have been used by other agencies throughout the country and are being considered for adoption by at least one international organization.

AGENDA

**MEETING OF THE TASK FORCE ON BEACH AND WATER
SAFETY**

**FEBRUARY 14, 2005 AT 9:00 A.M.
WEST HAWAII MAYOR'S OFFICE
KAILUA-KONA, HAWAII**

9:00 A.M.

Call to Order

Sign Posting location/relocation requests

Discussion of development of Comprehensive Plans

Legislative update re: Act 190 and Act 170

Site inspection: Kahaluu, Magic Sands

LUNCH

Site inspection; Hapuna, Kua Bay

APPENDIX 1

MINUTES TASK FORCE ON BEACH AND WATER SAFETY MEETING FEBRUARY 14, 2005

The meeting was called to order at 9:00 A.M.

SIGN POSTING LOCATION/RELOCATION REQUEST

Larry Davis, Hawaii - Submitted a sign relocation request for Kahaluu Beach

Request is to relocate sign #1 from the current location along the entry road, to a new location in front of the restroom. The old location is becoming overgrown and may not be very visible. The new location will be easier to see.

New location was approved by Task Force

LEGISLATIVE UPDATE

During the last legislative session, Dan Quinn reported that during the discussions of Act 190 related legislation, lawmakers inquired about collection of statistics.

The Task Force discussed information which may be available and should be included in the next report to the Legislature.

Dr. R. Grigg related that State Department of Health maintains statistics for accidents at certain beaches and Department of Health may be able to analyze them.

P. Hendricks - May be able to correlate population to incidents

- Statistics may be available regarding lawsuits including suits filed and suits won/lost
- Statistics to consider include:
 - How much have the Counties spent on water safety since getting increased liability protection. One concern expressed by lawmakers when considering legislation was that Counties would reduce their lifesaving services once they were immune from liability.

- Number of guarded beaches
- Number of cases / case law / cost
- Expenses → liability insurance costs which were incurred before/after passage of Act 170.

The Committee discussed injury protection statistics.

Incidents are reported on an incident per 100,000 attendance basis, and may not show anything conclusive.

Any correlation between signs/injuries and deaths may be speculative.

Since injury statistics are based upon attendance, and attendance is unknown at unguarded beaches, it would be difficult to make a meaningful comparison between guarded and unguarded beaches those stats would have no meaning overall.

Discussion of signage posting for “other” signs

The Task Force discussed the posting of the “other” signs, that is the warning signs other than the “strong current” and “dangerous shorebreak” specifically cited by Act 190.

Before “other” signs can have their locations approved, the beaches must be evaluated for hazards.

COMPREHENSIVE PLAN DISCUSSION

The Task Force discussed the various components of a comprehensive plan which includes signs, and other methods to make information available to the public.

Comprehensive plan components

The Task Force discussed methods of public information outreach, and the potential for development of a website.

The meeting was adjourned at 11:00 and the Task Force conducted site inspection of sign posting.

APPENDIX 1

TASK FORCE ON BEACH AND WATER SAFETY MEETING FEBRUARY 14, 2005

Larry Davis	-	Hawaii
Pete Hendricks	-	Deputy Managing Director, Hawaii County
Daniel Quinn	-	DLNR, State Parks
Marian Feenstra	-	Maui
Ricky Grigg	-	U.H.
Chris Stelfox	-	Capt., Hawaii County
Jim Howe	-	C & C of Honolulu

AGENDA

**MEETING OF THE TASK FORCE ON BEACH AND WATER
SAFETY**

**July 1, 2005 at 10:00 A.M
Kauai Marriott**

10:00 A.M.	Welcome, Introduction
	Approval of Previous Meeting minutes
	Old Business
	New Business
	1. Requests for approval
	2. Report to Legislature 2005
	3. Sunset Provision - Act 190
12:00 Noon	Adjourn
	Lunch (No Host) at Duke's at Kauai Marriott

APPENDIX 2

MINUTES

MEETING OF THE TASK FORCE ON BEACH AND WATER SAFETY

**JULY 1, 2005, AT 10:00 A.M.
Kauai Marriott**

The meeting was called to order at 9:00 A.M.

DISCUSSION OF THE MINUTES OF FEBRUARY 14, 2005.

Approval of the minutes was deferred pending reformatting.

REQUEST FOR APPROVAL

The County of Kauai submitted sign replacement documentation for Kealia Beach and Marine Camp (Nukolii Beach). These submittals are for record purposes only and no approval is needed.

The City and Honolulu submitted a request to post signs at Koko Kai beach Park, also known as China Walls. The request is to post two "Strong Current" signs and one "Waves on Ledge" sign at the end of the cul-de-sac which provides access to the beach.

The request was approved by the Task Force and will be submitted to the Chairperson.

REPORT TO THE LEGISLATURE/SUNSET PROVISION - ACT 190

The Task Force discussed Act 170 and Act 190 and the pending sunset in June 2007. The Legislature needs to see a report which shows that Act 170 and Act 190 are working. We need to think about what kind of data we can collect, and how to present. A concern raised is that the analysis of some data may require professional input.

Statistics which should be available include; death statistics kept by the Counties, lawsuits filed/won/lost and amounts paid out (compare before and after Act 190 and Act 170) including costs to defend the Counties and State from lawsuits.

D. Quinn and R. Goto will meet to discuss available statistics. The Task Force wants to be sure that this year's report to the Legislature includes a discussion of lifeguards and liability immunity and the need to fund and provides lifeguards

Dr. Grigg stated that the beaches on all islands should be evaluated for hazards. This will provide guidance for posting additional signs.

The Task Force received a suggestion from a Kauai resident recommending creating and posting signs which warn of “Rogue Waves”. Dr. Grigg explained that the term rogue wave is a specialized term which defines an ocean condition which rarely occurs. Dr. Grigg explained the scientific definition of a rogue wave which differs from the common use of the term. The Task Force discussed the issue and agreed that warning signs for rogue waves will not be recommended.

The meeting was adjourned at 11:30 A..M.

APPENDIX 2

TASK FORCE ON BEACH AND WATER SAFETY ATTENDANCE JULY 1, 2005

Robert Westerman	-	Kauai County Fire Chief
Daniel Quinn	-	Division of State Parks, Dept. of Land and Natural Resources
Ralph Goto	-	City and County of Honolulu
Kalani Vierra	-	County of Kauai
Larry Davis	-	Hawaii County
Marian Feenstra	-	Maui County
Ricky Grigg	-	UH